

ANNUAL REPORT
OF THE
HEALTH FINANCE COMMISSION



Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204

November, 2010

INDIANA LEGISLATIVE COUNCIL

2010

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Staff

**Casey Kline
Attorney for the Committee
Ann Naughton
Attorney for the Committee
Kathy Norris
Fiscal Analyst for the Committee**

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation (IC 2-5-23) establishing the Health Finance Commission to study health finance in Indiana. The Commission may study any topic: (1) directed by the chairperson of the Commission; (2) assigned by the Legislative Council; or (3) concerning issues that include the delivery, payment, and organization of health services and rules that pertain to health care delivery, payment, and services that are under the authority of any board or agency of state government.

The Legislative Council assigned the following additional responsibilities to the Commission for the 2010 interim:

- (1) Whether pharmacists should be required to inform a prescribing physician or physician's office of a change in the brand name manufacturer of a prescribed medicine to treat certain long term health conditions (HEA 1320-2010).
- (2) Whether a paramedic board should be established to license paramedics instead of paramedics being certified by the Emergency Medical Services Commission (SEA 356-2010).
- (3) The Indiana check-up plan and provide guidance and make recommendations regarding the plan (HB 1132).
- (4) Methods to increase availability of affordable coverage for health care services for all Indiana residents (HB 1132).
- (5) An education and orientation program for individuals participating in the Indiana check-up plan (HB 1132).
- (6) The impact of new federal health care and health insurance laws on the Indiana check-up plan (HB 1132).
- (7) LSA report on Patient Protection and Affordable Care Act (PPACA) (SCR 15).
- (8) Long term care savings plans (HR 32).
- (9) The prevalence of brain injury, the scope of brain injury services, and financing for those services in Indiana (SCR 32).
- (10) Impact of a statewide smoking ban in Indiana (Representative C Brown).

II. SUMMARY OF WORK PROGRAM AND TESTIMONY

The Commission met three times during the 2010 interim: July 15, 2010, September 8, 2010, and October 28, 2010. For more detailed information concerning the testimony at a meeting, please see the minutes on the Commission's website:

<http://www.in.gov/legislative/interim/committee/#H>

July 15, 2010.

The first meeting was held on July 15, 2010. The Commission heard a presentation on the federal health care reform legislation, and an update on the Indiana Check Up Plan (Plan), and whether education and orientation on the Plan should be offered to participants.

Ms. Joy Wilson and Ms. Melissa Hansen, representing the National Conference of State Legislatures (NCSL), provided the Commission with information pertaining to the federal health care reform law (Act). Ms. Lawren Mills, Office of the Governor, Ms. Pat Casanova, Office of Medicaid Policy and Planning, FSSA, and Ms. Robyn Crossen, Department of Insurance informed the Commission of the actions the executive branch has taken on implementation since the passage of the Act.

Ms. Carol Irvin, Mathematica Policy Research, Inc., provided the Commission with the results of an evaluation of the Plan that was conducted by Mathematica Policy Research through a contract with FSSA. Representatives of insurance companies that have contracted with the state to provide coverage under the Plan told the Commission about their actions to educate and provide orientation to members of the Plan.

September 8, 2010

The second meeting of the Commission was held on September 8, 2010. The Commission heard testimony concerning generic drug substitution by pharmacists, paramedic licensure, the Communities for a Lifetime initiative, and a statewide smoking prohibition.

Dr. Tom Vidik, Elkhart, IN, informed the Commission that a generic form of a brand name drug does not have the identical make up of the brand name drug and even generic drugs differ from each other. Dr. Vidik stated that he often writes prescriptions that specify brand name only because of the variances within the generics. Dr. Vidik testified that he opposes generic substitution of anti-convulsant drugs used to treat epilepsy. Mr. Barry Boudreaux, representing the pharmacy benefit manager MEDCO, informed the Commission that generic drugs are safe, effective, and affordable and offer value to consumers. Mr. Boudreaux further stated that Indiana law already allows for a prescriber to specify when a specific brand is necessary and discussed MEDCO's policy for contacting a health care provider about the availability of a generic drug.

The Commission was informed that paramedics are currently certified by the Indiana Department of Homeland Security and that a bill was introduced in the 2009 session to change this structure by having the paramedics licensed by the Indiana Professional Licensing Agency. The Commission heard testimony from interested parties discussing concerns about moving the

regulation of paramedics over to the Indiana Professional Licensing Agency but supporting a change from paramedic certification to paramedic licensure. The Commission also heard from individuals who were concerned with how changing from certification to licensure would affect this industry, including concerns about reimbursement.

Dr. Philip Stafford, Center on Aging and Community, Indiana Institute on Disability and Community, Indiana University, informed the Commission about an initiative to create Communities for a Lifetime and requested the reintroduction of a bill from the 2009 session that would create a committee to develop protocols to designate areas as Communities for a Lifetime. Dr. Stafford stated that in order to plan communities that will be a good place to grow old, the current structure of buildings and communities that are continuing to be built and create separate geographic locations of groups of people needs to be changed. The Commission was informed about a project in Kendallville, Indiana to create a community for a lifetime.

Proponents of a statewide smoking prohibition provided the Commission with statistics concerning smoking. Senator Terry Link, Illinois State Senate, testified concerning Illinois' experience with the implementation of a statewide smoking prohibition and the impact on Illinois casinos. Opponents of a statewide smoking prohibition testified on the negative impact local smoking prohibition ordinances have had on bars and other businesses.

October 28, 2010

The third meeting of the Commission was held on October 28, 2010. The Commission heard testimony on issues concerning treatment of brain injuries in Indiana, long term care savings plans, a review of the results of the disproportionate share hospital (DSH) evaluation report, an update on FSSA litigation against IBM, issues concerning the Community and Home Options to Institutional Care for the Elderly and Disabled (CHOICE) program, and a Marian University presentation on its planned medical school. The Commission also considered its final report and proposed preliminary drafts for recommendation by the Commission.

Ms. Pat Casanova, FSSA, provided the Commission with Medicaid cost statistics for caring for Medicaid recipients with brain injuries. Ms. Casanova stated that there are 142 people on the Traumatic Brain Injury Medicaid waiver, which requires recipients to have a nursing facility level of care need. Ms. Casanova stated that there are approximately 70 Medicaid recipients receiving brain injury services at out-of-state facilities due to Indiana's lack of available services. Ms. Faith Laird, FSSA, stated that a work group has been created to explore the option of providing the brain injury services in Indiana. Ms. Laird informed the Commission that one of the barriers is the lack of a license category for brain injury service providers. Mr. Vince McGowen, Magnolia Healthsystems, stated that his company has a concept plan for establishing a campus-style brain injury facility in Indiana but that funding is difficult to obtain with the lack of a licensing category for these services. Ms. June Holt, the mother of an individual with a brain injury, described the difficulties that face family members who are attempting to find services for loved ones.

Mr. Paul Chase, Indiana AARP, stated that AARP generally supports plans that assist individuals in planning for their long term care needs, and testified on some of the barriers that prevent individuals from purchasing long term care insurance. Mr. Chase described the Nebraska long term care savings plan (which he said has not been very successful) and the federal Community Living Assistance Services and Supports (CLASS) Act that was passed as part of federal health care reform.

Ms. Karen Firestone, Legislative Services Agency, provided a brief summary of the findings of an evaluation of the hospital supplemental payment programs performed as part of the Legislative Evaluation and Oversight program. Ms. Firestone stated that she reviewed how supplemental payments are funded and distributed, compared the Indiana State Medicaid Plan to statutes and rules concerning supplemental payments, and analyzed the characteristics of safety net hospitals.

Mr. John Cardwell, Generations Project, expressed his concerns with the Budget Agency holding back 15% percent of the budgetary funding for CHOICE services.

Mr. Michael Carter, FSSA, provided an update on FSSA's litigation against IBM for breach of contract in providing eligibility determinations for welfare projects. Mr. Carter stated that the lawsuit is in the discovery stages and has resulted in over one million documents being produced as part of discovery. Mr. Carter stated that FSSA requested to use outside counsel for the lawsuit due to the complexity of the case. Mr. David Miller, Office of the Attorney General, stated that his office tries to accommodate client agencies that request outside counsel and that the Attorney General makes the final determination on the use of outside counsel.

Dr. Paul Evans, Dean of the College of Osteopathic Medicine, Marian University, stated that the medical school will begin classes in 2012 with 150 students and the first class will graduate in 2016. Dr. Evans discussed the philosophical differences between conventional medicine and osteopathic medicine. Dr. Evans stated that the new school will cost \$53 million for construction and result in the creation of 325 direct jobs and 185 indirect jobs. Dr. Evans expressed hope that the state will support state residents who wish to attend the medical school.

III. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Commission took the following action:

PD 3476, Indiana Brain Injury Commission, Rep. C. Brown.

Creates the Indiana Brain Injury Commission and requires certain reports to be made to the General Assembly.

The Commission voted to amend the PD to include a requirement that the Indiana Department of Health adopt rules before July 1, 2013, to establish licensing categories for providers of services with brain injuries. The Commission voted 12 to 0 to recommend the amended PD.

PD 3354- Hoosier Commission for Communities for a Lifetime, Senator Simpson.

Creates the Hoosier Commission for Communities for a Lifetime and requires the commission to make certain reports to the general assembly.

The Commission voted to amend the PD to remove language allowing per diem for members of the Hoosier Commission for Communities for a Lifetime and specified that the members would not receive a per diem. The Commission voted 12 to 0 to recommend the amended PD.

Preliminary Draft (PD) 3455- Statewide smoking prohibition and pdoc 20111086.004 (pdoc), Rep. C. Brown.

Prohibits smoking: (1) in public places; (2) in enclosed areas of a place of employment; (3) in certain state vehicles; and (4) within 12 feet of a public entrance to a public place or an enclosed area of a place of employment. Requires the alcohol and tobacco commission to enforce this prohibition. Makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three prior unrelated judgments for violations. Prohibits firing or refusing to hire a person for reporting a violation or exercising any right or performing any obligation under the smoking prohibitions. Repeals the current clean indoor air law that prohibits smoking in public buildings. PD 3455 and the pdoc differ in that PD 3455 allows cigar smoking in certain establishments and the pdoc does not include this exemption.

Rep. C. Brown moved the pdoc and the motion was seconded. The Commission voted 9 to 3 and the pdoc failed to receive the necessary votes to have the Commission's approval.

Final Report. The Commission voted 12 to 0 to adopt the Commission's final report, with the authorization that staff would insert the action taken during the October 28, 2010 meeting.

WITNESS LIST

Rick Archer, Indiana Department of Homeland Security
Doug Beebe, Executive Director of Hook Rehabilitation Services, Community Health Network
Barry Boudreaux, MEDCO
Michael Campbell, Wellness Council of Indiana
John Cardwell, Generations Project
Michael Carter, General Counsel, FSSA
Pat Casanova, Office of Medicaid Policy and Planning, FSSA
Paul Chase, Indiana AARP
Robyn Crossen, Department of Insurance
Duane Etienne, President Emeritus CICOA Aging and In Home Solutions
Dr. Paul Evans, Marian University, College of Osteopathic Medicine
Randy Fox, Dekalb EMS
Nathan Gabhart, Indiana Pharmacy Alliance
Melissa Hansen, NCSL
John Hart, Indiana Fire Chiefs Association
June Holt, Generations Project
Carol Irvin, Mathematica Policy Research, Inc.
Kristen LaEace, Area Agencies on Aging
Senator Terry Link, Illinois State Senate
Don Marquardt, Indiana Licensed Beverage Association
Paul McClain, bar owner, Ft. Wayne, IN
Vince McGowen, Magnolia Healthsystems
Scott McKibbin, McKibbin Group
David Miller, Office of the Attorney General
Gary Miller, Prompt Ambulance and Chairman of EMS Commission
Lawren Mills, Office of the Governor
Tony Murray, Professional Firefighters' Union
Kevin O'Flaherty, Campaign for Tobacco Free Kids
Danielle Patterson, Indiana Campaign for Smoke Free Air
Michael Ripley, Indiana Chamber of Commerce
Tammy Robinson, representing Anthem
Mark Scherer, Indiana Society for Respiratory Care
Dr. Philip Stafford, Center on Aging and Community, Indiana Institute on Disability
and Community, Indiana University
Brian Tabor, Indiana Hospital Association
Allison Taylor, Indiana Hospital Association
Dr. Lance Trexler, Chairperson of the Board for the Brain Injury Association of Indiana
Lee Turpen, Paramedic
Dr. Tom Vidik, Elkhart, IN
Ms. Laurie Weinzapfel, MDwise,
Joy Wilson, NCSL
John Zartman, Community Health